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IN THE

Supreme Court of the United States

OCTOBER TERM 1967

No. 590

ROBERT GRAHAM GRAY,
Appellant,

vs.

MARIE GRAY PORTER,
(FORMERLY: MARIE K. GRAY)
Appellee.

Petition for Re-hearing of Order Denying Petition for Writ of Certiorari

ROBERT GRAHAM GRAY
708 First Colonial Road
Virginia Beach, Virginia

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Appellee.

MOTION

Petitioner, Robert Graham Gray, respectfully moves this Honorable Court for leave to file the annexed petition for re-hearing of the order of this Court denying the petition for a writ of certiorari in the case, entered on December 4th, 1967. Re-hearing is sought at this time by virtue of the fact that the transcript of the proceedings in the Trial Court were not previously available and, accordingly, did not constitute a part of the record when the original petition for a writ of certiorari was filed herein. The record, your petitioner feels, will conclusively show that the original hearing in this cause was not held on the date set forth in the decrees, and that he was not given notice of the trial date.

Petitioner, Robert Graham Gray, respectfully prays that this Honorable Court grant re-hearing of its Order of December 4th, 1967, denying his petition for a writ of certiorari previously filed herein, and that a writ of cer-

tiorari be issued to review the judgment of the Court of Appeals of Maryland entered in the September Term, 1966 in the above entitled cause, as prayed for in the Petition for a Writ of Certiorari presently filed herein.

REASON FOR GRANTING RE-HEARING

Petitioner submits that there was no record of the proceedings in the Trial Court filed with his original petition; due to the fact that the same was not available to him prior to the date of the filing of the original petition herein. A copy of the record of the proceedings in the Trial Court, together with pertinent correspondence from counsel, appears in the Appendix hereto.

Petitioner submits, from a review of the record of the proceedings, and his original petition filed herein, that no hearing was held on July 29th, 1957, in the Circuit Court for Allegany County, Maryland, as the transcript shows only a docket entry on that date (APP. 19a). The letter from Edward J. Ryan, Attorney, dated June 12th, 1963 (APP. 9a), further supports petitioner's contention that no trial was, in fact, held on July 29, 1957. Petitioner further alleges contrary to the further statement in the letter that he was not given notice, in any manner or form of the continuation of the proceedings to July 30th, 1957; further submitting that when he appeared on the 29th of July, he was merely informed that the case would not be heard that day.

Accordingly, your petitioner submits that his Constitutional Guarantee of Due Process of Law, as provided by the Fourteenth Amendment to the Constitution of the United States, when he was not given notice of the date of the hearing in the Trial Court, and your petitioner submits that the decree entered by the Circuit Court for

Allegany County, Maryland, on the 30th day of July, 1957, was a void judgment.

CONCLUSION

For the reason set forth above and in the petition for writ of certiorari, it is respectfully submitted that re-hearing be granted and that, upon such re-hearing, a writ of certiorari issue to the Court of Appeals of Maryland.

Respectfully submitted,

ROBERT GRAHAM GRAY,
Petitioner

ROBERT GRAHAM GRAY
708 First Colonial Road
Virginia Beach, Virginia

CERTIFICATE

I hereby certify that the foregoing petition for re-hearing is presented in good faith and not for delay and is restircted to grounds specified in Rule 58 of the rules of this Court.

ROBERT GRAHAM GRAY,
Petitioner